



STATE OF NEW YORK

**DEPARTMENT OF CORRECTIONS
AND COMMUNITY SUPERVISION**

THE HARRIMAN STATE CAMPUS – BUILDING 2

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October 6, 2011

David Hamilton, Ph.D., LMSW
Executive Secretary, State Board for Social Work
New York State Education Department
Office of the Professions
89 Washington Avenue
Albany, New York 12234-1000

Dear Dr. Hamilton:

Chapters 130 and 132 of the Laws of 2010 require each exempt agency to submit to the State Education Department (SED) a report on the utilization of personnel subject to the provisions of those sections of law. The Department of Corrections and Community Supervision (DOCCS) welcomes this opportunity to submit information outlining the large number of personnel and programs that are instrumental in the lives of offenders incarcerated at our facilities, and how they will be negatively impacted if our exemption is allowed to expire.

The New York State Department of Corrections and Community Supervision is a large state governmental agency that is responsible for the confinement and habilitation of approximately 56,535 offenders held at 61 state facilities including the 915 bed Willard Drug Treatment Campus. Our mission is to improve public safety by providing a continuity of appropriate treatment services in safe and secure facilities where offenders' needs are addressed and they are prepared for release, followed by supportive services under community supervision to facilitate a successful completion of their sentence.

We currently have an extensive array of programs for offenders, many that offer services that fall within the parameters of the 2002 state law and Article 163. We have conducted a thorough investigation of the duties performed by the personnel responsible for instituting these programs in regards to the current issue and request for exemption status. (ATTACHMENT #1)

INTRODUCTION AND OVERVIEW

BUREAU OF MENTAL HEALTH

DOCCS' Bureau of Mental Health is responsible for the coordination and implementation of all mental health services (in conjunction with the New York State Office of Mental Health) to offenders within our correctional facilities. Upon reception into DOCCS, each offender's need for mental health services is evaluated by Office of Mental Health (OMH) staff. Of the approximately 56,535 offenders held at the 61 NYS DOCCS facilities, approximately 8,100, or almost 15%, are diagnosed with a mental disorder and are currently in need of and receiving mental health services. The need for mental health services may also be re-evaluated during the course of incarceration, upon referral.

The level of need for mental health services is designated as follows:

- OMH Service Level 1 offenders are those who need or may need psychiatric treatment for a major mental disorder that may require frequent use of mental health services including frequent or anticipated need for placement in an Observation Cell. There are full-time OMH staff assigned to the facility.
- OMH Service Level 2 offenders are those offenders who need or may need psychiatric treatment for a major mental disorder and require housing in a facility with full-time OMH staff.
- OMH Service Level 3 offenders are those offenders who need or may need psychiatric treatment and medication for a moderate mental disorder and/or are in remission from a disorder and can function in a facility with part-time OMH staff.
- OMH Service Level 4 offenders are offenders who need or may need mental health intervention, without medication, in a facility with part-time OMH staff.
- OMH Service Level 5 is not used in this agency.
- OMH Service Level 6 offenders are offenders who have been assessed by OMH staff and found to not be requiring mental health services.

Mental health services range from treatment on an outpatient basis (to offenders in general population), which may include regularly scheduled counseling sessions and/or administration of prescribed psychotropic medication, to residence in special Residential Mental Health Treatment Units (RMHTU) with multi-disciplinary treatment teams and a full program of treatment. RMHTUs can accommodate approximately 1,080 mentally ill offenders. The approximately 7,000 other offenders receiving mental health services are housed in general population and/or are participating in other programs. Offenders in need of inpatient psychiatric care and treatment, who are mentally ill and a danger to themselves or others, may also be discharged to the Central New York Psychiatric Center (CNYPC), a 208-bed psychiatric hospital operated by the OMH.

The SHU Exclusion Law (ATTACHMENT #2) which went into effect July 1, 2011, and before it, the Disability Advocates, Inc. Private Settlement Agreement, (ATTACHMENT #3) which extends to the end of 2011, protect offenders with serious mental illness from being placed in segregated confinement, that is, disciplinary confinement in a Special Housing Unit (SHU) or a separate keeplock housing unit when such confinement could be for more than 30 days, unless there are exceptional circumstances, these offenders must be placed in a special treatment program at an RMHTU.

The SHU Exclusion Law mandates special training for all civilian and security staff coming into the Department who will regularly work in programs providing mental health treatment. It mandates at least 8 hours of training about the types and symptoms of mental illness, the goals of mental health treatment, the prevention of suicide and training in how to effectively and safely manage offenders with mental illness. This training is also mandated for all Department staff upon transfer into a RMHTU. In addition, all RMHTU staff must receive a minimum of 8 hours of such training annually, as well as additional training on these topics on an ongoing basis, as appropriate.

The SHU Exclusion Law also mandates oversight responsibilities to the New York State Commission on Quality of Care and Advocacy for Persons with Disabilities. This Commission is responsible for monitoring the quality of mental health care provided to offenders pursuant to that law. This Commission monitors the quality of care in RMHTU programs and ensures compliance. The Commission has direct and immediate access to all areas where state prisoners are housed, and to clinical and department records relating to offenders' clinical conditions. The Commission reports annually to the Governor and the Legislature.

All DOCCS staff have the responsibility for the care of incarcerated offenders, including determining when there is a need for referral to Mental Health. This assessment of need for mental health services, including the observable behaviors, etc., which indicated the need for referral, are recorded via DOCCS Mental Health Referral form (3150). (ATTACHMENT #4)

All offenders are assessed for risk of suicide on the day of arrival at a reception or intake center, using DOCCS Reception/Suicide Prevention Screening Guidelines form (3152RC), or immediately upon admission to a SHU or a Separate Keeplock Unit, using DOCCS Suicide Prevention Screening Guidelines – SHU/Keeplock (KL) Admission form (3152SHU/KL). At reception and intake sites, if OMH personnel are not available, this is done by DOCCS Health Services staff. For offenders admitted to SHU or a separate keeplock unit, the assessment is done by the SHU or keeplock Supervisor, a correction officer with the rank of Sergeant, unless the offender was taken to the infirmary on the way to the SHU or separate keeplock unit. In that case the assessment is completed by a DOCCS health care staff member. (ATTACHMENTS #5)

The special treatment programs in DOCCS include: the Residential Mental Health Treatment Unit, the Intermediate Care Program (ICP), the Intensive Intermediate Care Program (IICP), the Therapeutic Behavioral Unit, the Behavioral Health Unit, and the Special Needs Unit. (ATTACHMENT #6) DOCCS staff assigned to these units are part of multi-disciplinary treatment teams which staff these units.

RMHTUs are operated jointly by DOCCS and OMH. The RMHTU multi-disciplinary treatment teams consist of an equal number of individuals from DOCCS and OMH who are assigned to the RMHTU. They review and determine each offender's appropriateness for movement through the various program phases. The treatment team also reviews, monitors and coordinates treatment plans for all program participants.

Unlicensed Bureau of Mental Health personnel who are members of a multi-disciplinary treatment team engage in tasks and activities, which may fall within the restricted scope of practice. The tasks and activities include assessment/evaluation, assessment-based treatment planning, and treatment other than psychotherapy. OMH staff is responsible for making clinical decisions based on input from all treatment team members and provides clinical supervision for all unlicensed staff providing services.

Through regularly scheduled group and individual sessions, and participation as members of the treatment team, Correction Counselors, Supervising Correction Counselors, Alcohol and Substance Abuse Treatment (ASAT) Correction Counselors, Recreation Program Leaders, Nurses, and Teachers engage in these tasks and activities.

Deputy Superintendents or Assistant Deputy Superintendents of Programs co-chair the treatment teams. Through regularly scheduled rounds, during which they have one-on-one contact with each offender-patient in the program, and through participation as members of the treatment team, they engage in these tasks and activities.

These professional and related services are provided to persons incarcerated in DOCCS facilities directly through programs operated by DOCCS and OMH. DOCCS does not provide any direct services to the general public.

This agency is currently completing changes to comply with the SHU Exclusion Law, which went into effect on July 1, 2011. As the newly established programs become fully occupied, staffing levels will adjust.

SEX OFFENDER PROGRAM

DOCCS also makes available a Sex Offender Counseling and Treatment Program (SOCTP) for those offenders who are serving sentences for a felony sex offense and those identified as having a need for the program in accordance with the Sex Offender Management and Treatment Act (SOMTA). (ATTACHMENT # 7) The primary purpose of the program is to reduce the likelihood of reoffending by assisting such offenders to control their chain of behaviors that lead to sexual offending. The goal is to assist participants in demonstrating acceptance of responsibility for the sexual offending behavior, developing and demonstrating an understanding of the cycle of sexual offending behavior and developing a viable release plan with appropriate relapse intervention and prevention strategies.

All participants admitted into the SOCTP will undergo the following assessment process:

1. Re-offending risk is assessed using the STATIC 99 instrument. (ATTACHMENT #8) At reception, re-offending risk of offenders who have a conviction for one or more offenses specified under MHL §10.03 (p) (ATTACHMENT #9) will be assessed by the Office of Mental Health Sex Offender Assessment Unit. Participants who have not yet had their re-offending risk assessed will be assessed by the SOCTP Licensed Masters Social Worker or Psychologist upon their admission to the program. Participants are given a designation of moderate to high or low re-offending risk and are placed in the appropriate program.
2. Psychosexual evaluations and assessments may also be done by OMH staff for participants convicted of a crime included within MHL Section 10.03 (p). The Department's Mental Health staff will complete the Participation Notification Form, available in the orientation section of the curriculum, for all offenders convicted of a crime specified in MHL Section 10.03 (p) who are time eligible to participate in the program. Following best practices, sex offenders will be placed in the SOCTP as they get closer to their release date: eighteen (18) months to earliest release date for low risk sex offenders and thirty six (36) months to conditional release date for moderate and high risk offenders.

The length of participation is dependent upon the initial assessment of the offender's specific needs and the degree of progress made in the course of the program.

SUBSTANCE ABUSE TREATMENT SERVICES

DOCCS operates chemical dependence treatment services in various correctional facilities with the mission for treatment services to provide the offender with the foundation for positive change and help him/her prepare for a successful return to the community by providing assessment, education, counseling, relapse prevention, and discharge planning. The treatment services are designed to assist offenders to understand the nature of addiction and that treatment for alcohol and substance abuse does work. The goal of ASAT is to help the offender progress through the early stages of recovery in each of the life areas. The successful program participant is responsible for demonstrating progress toward established treatment plan goals in applicable life areas, which should be reflected in changes in behavior and attitudes resulting in maintaining a crime and drug-free lifestyle.

DOCCS currently has 8,800 offenders in Office of Alcoholism and Substance Abuse Services (OASAS) certified ASAT programs within our correctional facilities, with an additional 14,142 waiting to be placed into a program.

Supervising Correction Counselors Alcohol and Substance Abuse Treatment (ASAT), and line staff Correction Counselors (ASAT) and ASAT Program Assistants (both identified as "primary counselor") develop an individualized substance abuse treatment plan. This is based on their Axis I diagnostic impression rendered from the admission and comprehensive evaluation process. Treatment planning identifies an integrated program of therapies and interventions, to include individual and group therapy, which ASAT staff provide. Continuous treatment plan reviews, updates, and evaluation of offender progress toward treatment plan goals aid in continuing recovery discharge

planning. The above services are provided directly by NYS Department of Corrections and Community Supervision staff.

Revised 2011 Substance Abuse Treatment operation manuals (ATTACHMENT #10) establish policies and procedures, which note if the primary Counselor is not a Qualified Health Professional (QHP) admission and comprehensive evaluations and treatment plans must be reviewed and signed by a supervisory QHP, if accessible. In the event the primary Counselor and supervisory staff are not QHPs, a facility-developed Quality Improvement Plan (QIP) must include review of minimally three non-QHP records by a multi-disciplinary team.

GUIDANCE

Guidance units are found at every correctional facility. Correction Counselors apply social casework principles to the social, educational and vocational rehabilitation of offenders. They guide and assist offenders in their adjustment to their new environment, encouraging them to upgrade their educational and vocational skills and to modify their behavior in order to prepare them for eventual release into the community.

Supervising Correction Counselors are responsible for the overall operation of the facility Guidance Unit, supervise the staff, and oversee the delivery of counseling and case management services to offenders. They evaluate the effectiveness of a specialized counseling program and the provision of skilled guidance to offenders with difficult institutional, personal, behavioral, familial, social, and educational problems. They are responsible for recommending individuals for educational and vocational programs, work assignments and treatment programs, and coordinating rehabilitation programs. They also evaluate and investigate offenders' program participation while completing legislated reports for Earned Eligibility, Merit, and Presumptive reviews.

SECURITY

DOCCS employs a large number of security staff consisting of Correction Officers, Correction Sergeants, Correction Lieutenants, Captains and Deputy Superintendents of Security Services. They are responsible for the custody and security, as well as the safety and well-being of criminal offenders in New York State Correctional Facilities. They supervise the movement and activities of offenders, make periodic rounds of assigned areas, conduct searches for contraband, maintain order within the facility, and prepare reports as necessary. They advise offenders of the rules and regulations governing the operation of the facility and assist them in resolving problems. Each one of these security positions has a high degree of responsibility for their actions and decisions and plays a large role in the rehabilitative process of the incarcerated population.

SNAPSHOT OF STAFFING

BUREAU OF MENTAL HEALTH

Treatment teams within our facilities consist of both DOCCS and OMH personnel in order to meet the multi-faceted issues that exist for this population. The teams consist of

an equal number of OMH staff and DOCCS' staff. These teams are comprised of clinicians, program staff, and security officers. The OMH staff, consisting of the licensed clinicians, addresses management of behavioral issues, cognitive impairments, and signs and symptoms of mental illness. DOCCS' program staff address substance abuse, sex offending behavior, aggression, education, and skills for transition.

The Residential Mental Health Unit (RMHU) is a program initiative developed by OMH and DOCCS to address the special needs of offender-patients currently diagnosed with a serious mental illness by OMH, as defined in the SHU Exclusion Law, who, due to their disciplinary status, are serving time in a SHU or separate keeplock housing unit. Offender-patients in these circumstances have displayed an inability to conform their behavior to institutional standards of conduct and present with a complex interplay of social, psychological and behavioral factors that warrant the provision of a heightened level of care.

The RMHU is an involuntary program. The target population for the RMHU is an offender-patient currently diagnosed by OMH with mental, behavioral or cognitive disorders (Axis I and/or Axis II) who, due to their disciplinary status, are serving more than 30 days of confinement in SHU or 60 days in a separate keeplock housing unit, and who would benefit from treatment interventions provided in the RMHU.

RMHU treatment teams include: (4) ASAT Correction Counselors, (2) Correction Counselors, (1) Supervising Correction Counselor, (1) Deputy Superintendent of Correctional Mental Health Care Facility, (1) Assistant Deputy Superintendent of Programs, (5) Licensed Master Social Workers, (11) Nurses, (3) Recreation Program Leaders, (5) Teachers, and (2) Chaplains.

The non-licensed individuals providing restricted activities include: ASAT Correction Counselors, Correction Counselors, Supervising Correction Counselor, Deputy Superintendent of Correctional Mental Health Care Facility, Assistant Deputy Superintendent of Programs, Nurses, Recreation Program Leaders, and Teachers. Restricted tasks and activities performed by unlicensed staff include assessment/evaluation, assessment-based treatment planning, and treatment other than psychotherapy. These tasks and activities are reviewed by the treatment teams.

The Intermediate Care Program (ICP) is a therapeutic community that provides mental health services and promotes development of self-regulation, symptom management, social, recreational, and rehabilitative skills. The goal of the ICP is to improve offender-patients' functioning while reducing the impact that symptoms of mental illness and behavioral instability can have on adjustment during incarceration. In addition to traditional clinical services, the ICP provides case management, crisis intervention, adaptive skills training, self-help, and peer support. This program is designed for offenders who, by virtue of experiencing mental illness, are unable to successfully function within the least restrictive general prison population environment. All ICP services are linked to individualized treatment plans formulated by the ICP multi-disciplinary treatment team.

By Memorandum of Understanding between DOCCS and OMH (ATTACHMENT #11), this agency reimburses OMH for its licensed clinical ICP items performing restricted activities.

DOCCS ICP treatment team items include (17) Correction Counselors, (14) Supervising Correction Counselors, and (2) Assistant Deputy Superintendents.

The non-licensed individuals providing restricted activities include: Correction Counselors, Supervising Correction Counselors, and Assistant Deputy Superintendents. Restricted tasks and activities performed by unlicensed staff include assessment/evaluation, assessment-based treatment planning, and treatment other than psychotherapy.

The Intensive Intermediate Care Program (IICP) is for offenders who are designated as Seriously Mentally Ill (SMI), and have exhibited poor adjustment in prison, to receive enhanced mental health interventions that promote engagement in therapeutic services/programs, improve capacity for self care, improve ability to program consistently and remain safe in the least restrictive environment within the CNYPC and DOCCS' systems.

The individuals requiring IICP placement have demonstrated the need for services beyond those currently being provided in an ICP. The IICP is designed for those mentally ill offenders who have not been successful in general population and who are currently serving over 60 days of keeplock sanctions. The IICP treatment team includes a Correction Counselor and a Supervising Correction Counselor.

The non-licensed individuals providing restricted activities include: the Correction Counselor and the Supervising Correction Counselor. Restricted tasks and activities performed by unlicensed staff include assessment/evaluation, assessment-based treatment planning, and treatment other than psychotherapy.

The Therapeutic Behavioral Unit (TBU) expands services to a target population of female offender-patients currently diagnosed with a serious mental illness (Axis I and/or Axis II) who, due to their disciplinary status, are typically serving time in SHU or extended keeplock and who would benefit from the enhanced mental health treatment interventions provided in the TBU. This program provides evaluation, intervention, and supportive mental health services for any female DOCCS offender-patient meeting admission criteria.

TBU treatment teams include: a Correction Counselor, an ASAT Correction Counselor, a Supervising Correction Counselor, and a Licensed Master Social Worker.

The non-licensed individuals providing restricted activities include: the Correction Counselor, the ASAT Correction Counselor, and the Supervising Correction Counselor. Restricted tasks and activities performed by unlicensed staff include assessment/evaluation, assessment-based treatment planning, and treatment other than psychotherapy.

The Behavioral Health Unit (BHU) is a program jointly developed by OMH and DOCCS to address the special needs of offender-patients currently diagnosed with a serious mental illness, as mentioned above, who due to their disciplinary status, are serving time in SHU. Offender-patients in these circumstances have displayed an inability to conform their behavior to institutional standards of conduct and present with a complex

interplay of social, psychological, and behavioral factors, thus warranting they be offered a heightened level of care.

Upon program entry, offender-patients will be assessed by the treatment team. The BHU treatment team provides mental health and behavioral interventions that enable offender-patients to adjust to environmental demands and ultimately be reintegrated into an alternate prison placement.

BHU treatment teams include: a Correction Counselor, (3) ASAT Correction Counselors, (4) Nurses, (2) Recreation Program Leaders, a Licensed Master Social Worker, a Physician's Assistant, a Teacher, and a Translator.

The non-licensed individuals providing restricted activities include: the Correction Counselor, ASAT Correction Counselors, Nurses, Recreation Program Leaders, Teacher, and Translator. Restricted tasks and activities performed by unlicensed staff include assessment/evaluation, assessment-based treatment planning, and treatment other than psychotherapy.

Special Needs Units (SNU) provide programs and housing areas for offenders who have intellectual and adaptive behavioral deficits and, as a result, may have significant difficulty adjusting to the prison environment. These units are therapeutic communities that provide short and long-term habilitative and rehabilitative services to offenders who have been identified as developmentally disabled or who possess significant intellectual and adaptive behavior deficits. These offenders generally present with an IQ below 70 and have adaptive behavior deficits that impair independent functioning in the general prison population.

SNU treatment teams include: (3) Supervising Correction Counselors, (4) Correction Counselors, (4) Teachers, (5) Teaching Assistants, and (4) Recreation Program Leaders.

The non-licensed individuals providing restricted activities include: Supervising Correction Counselors, Correction Counselors, Teachers, Teaching Assistants, and Recreation Program Leaders. Restricted tasks and activities performed by unlicensed staff include assessment/evaluation, assessment-based treatment planning, and treatment other than psychotherapy.

The Assessment and Program Preparation Unit (APPU) is a program for offenders in need of protective custody in the system or who may be prone to victimization because of physical stature, weak personality, nature of crime, notoriety or other appropriated condition. The goal of this program is to assess needs, teach coping skills, and reintegrate the offender back to general population. This Unit provides a full range of programs for offenders while keeping them totally segregated from the general facility population.

The non-licensed individuals providing restricted activities in APPU include: a Psychologist, (2) Correction Counselors, a Supervising Correction Counselor, an Assistant Deputy Superintendent of Programs, (4) Teachers, and (2) Vocational Instructors. Restricted tasks and activities performed by unlicensed staff include

assessment/evaluation, assessment-based treatment planning, and treatment other than psychotherapy.

Merle Cooper is a therapeutic community and intensive long-term counseling program for offenders experiencing adjustment difficulties either during their current period of incarceration or with life circumstances in general. Typically, these offenders have had more than one incarceration, a history of substance abuse, history of psychiatric treatment, chronic disciplinary problems, bizarre and/or violent crimes, and/or escalating seriousness and violence of criminal behavior.

The non-licensed individuals providing restricted activities in Merle Cooper include: (2) Psychologists, a Correction Counselor, an Assistant Deputy Superintendent of Programs, and a Vocational Instructor. Restricted tasks and activities performed by unlicensed staff include assessment/evaluation, assessment-based treatment planning, and treatment other than psychotherapy.

Sensorially Disabled Unit/Services (SDU) affords "reasonable accommodations" or modifications to existing policies and procedures at various facilities, including a residential unit, for individuals that require assistance and cannot safely function in the general prison population, in order to allow qualified offenders with disabilities the same opportunity as non-disabled offenders to participate in programs and services. Needs assessments and extended assessments are completed and updated, as disabilities change, to make placement, program, and reasonable accommodation recommendations.

The non-licensed individuals providing restricted activities in SDU's include: (2) Correction Counselors, (2) Vocational Rehabilitation Counselors, (2) Instructors of the Blind, (6) Translators Manual Communications, and a Teaching Assistant. Restricted tasks and activities performed by unlicensed staff include assessment/evaluation and assessment-based treatment planning.

The Special Treatment Program (STP) was initially included in our survey. STP's expanded services to offenders who were seriously mentally ill and were serving SHU confinement sanctions of over 30 days. However, all STP units have been converted to RMHTU's under the requirements of the SHU Exclusion Law.

In these, and in other settings within the Department, a total of (148) DOCCS Bureau of Mental Health positions require tasks and activities which may fall within the restricted scope of practice, i.e., assessment/evaluation, assessment-based treatment planning, and treatment other than psychotherapy. Of these (148) staff members, (139) are not licensed. The licensed individuals include (7) Licensed Master Social Workers, a Physician Assistant, and a Licensed Psychologist.

Job titles of unlicensed personnel who engage in restricted tasks include: Psychologist, Correction Counselor, Supervising Correction Counselor, ASAT Correction Counselor, Recreation Program Leader, Teacher, Teacher's Assistant, Recreation Program Leader, Nurse, Deputy Superintendent of Correctional Mental Health Care Facility, Assistant Deputy Superintendent of Programs, Vocational Rehabilitation Counselor, Instructor of the Blind, and Translator Manual Communications.

SEX OFFENDER

The Residential Sex Offender Counseling and Treatment Program (SOCTP) is a setting where offenders participating in the SOCTP are housed together in a housing unit that employs Therapeutic Community concepts. Participants in the therapeutic community work together to sustain a healthy and safe environment, which results in the community being the therapeutic agent of change. Most counseling activities occur on these residential units and include group treatment and community meetings. At this time there are eight residential SOCTP's operating in eight correctional facilities. Currently DOCCS has approximately 883 sex offenders in this program.

Residential treatment programs are staffed with a Psychologist who provides clinical supervision to the treatment staff, reviews and modifies treatment plans, provides clinical assessments, observes treatment groups, participates in discharge planning and participates as a member of the multi-disciplinary treatment team. Residential programs are also staffed with a Licensed Masters Social Worker who administer actuarial assessments, facilitate treatment groups, develop treatment plans and discharge plans

The Modular Sex Offender Counseling and Treatment Program (SOCTP) is a setting where offenders assigned to the SOCTP assemble in a specific classroom type setting to participate in the program. Offenders in the modular SOCTP do not necessarily reside in the same housing unit and may be housed in various areas of the correctional facility. At this time there are 15 modular SOCTP's operating in 11 correctional facilities. Currently DOCCS has approximately 272 sex offenders in this program.

Modular programs are staffed with a Licensed Master Social Worker and Correction Counselors who deliver an educationally based sex offender program. The Correction Counselor maintains the case record and treatment file, ensures all documentation is completed and up to date, develops basis treatment plans and discharge summaries, facilitates educationally based groups, and serves as the primary counselor.

The Supervising Correction Counselor is responsible for supervising the Correction Counselors in the sex offender treatment program, monitoring the program activities and ensuring appropriate group coverage, ensuring documentation is completed in a timely and comprehensive manner and ensuring that multi-disciplinary treatment team meeting are held.

The Correction Counselor maintains the case record and treatment file, ensuring all documentation is complete and up to date, co-facilitates groups and serves as the primary counselor and a member of a multi-disciplinary treatment team.

ALCOHOL AND SUBSTANCE ABUSE TREATMENT

While DOCCS has many established practices regarding Alcohol and Substance Abuse Treatment, the Department's collaborative initiative with OASAS will further highlight the treatment responsibilities of Alcohol and Substance Abuse Treatment (ASAT) staff (ATTACHMENT #12). Currently, DOCCS' staff with the ASAT parenthetic provides Axis 1 diagnosis, following a psychosocial based admission and comprehensive evaluation process. Depending on the services required, an integrated program of therapies and

interventions are identified in the individualized treatment plan, which may include individual counseling in small group therapy. The offenders will have periodic evaluations and will continue to receive recovery discharge planning.

As outlined in our survey responses the Department works hand in hand with other New York State agencies, such as the OMH and OASAS, regarding services provided to the offender population. DOCCS responsibility relative to this issue is to provide services regarding an offender's commitment requirements relative to their programmatic needs.

INFORMATION ABOUT THE RESTRICTED SERVICES

An offender who is admitted to ASAT shall be assessed to determine clinical service needs through a comprehensive evaluation. The goal of the Admission & Comprehensive Evaluation (ACE) is to obtain information necessary to develop an individualized offender-centered treatment plan. The primary counselor must complete the offender's ACE, which is a written report of findings and conclusions minimally addressing the offender's history of: alcohol and/or drug use; history of previous attempts to abstain from alcohol and/or drug use; prior treatment episodes for alcohol and/or drug use; assessment of the relationship between legal history and the offender's alcohol and/or drug use; history of interpersonal or other types of trauma; ability to express a full range of emotions appropriately; daily living skills and use of leisure time; and other pertinent issues that may be related to or affected by the offender's alcohol and/or drug use.

Based on the comprehensive psychosocial history and other relevant factors, the evaluation shall result in a specific diagnosis of alcohol related or psychoactive substance related disorder in accordance with the most recent version of the *Diagnostic and Statistical Manual (DSM)* or the *International Classification of Diseases (ICD)*; and/or a deferred diagnosis with a determination of significant risk factors for developing a drug/alcohol abuse problem. Examples of risk factors: criminal history, involvement with alcohol/substance abusers, family history, etc.).

The ACE will identify initial services needed, and will include schedules of individual and group counseling to address the needed services until the development of the treatment plan, and will include a master problem list where all problems are identified for each life area. The initial services must be based on goals the offender identifies for treatment and must include chemical use and any other priority issues identified in the admission assessment.

The ACE contains the names of the staff members who participated in evaluating the offender and the ACE must be reviewed, signed and dated by an appropriate Qualified Health Professional (QHP). Upon completion of the ACE, and within ten (10) calendar days from admission to ASAT, an individualized offender-centered comprehensive treatment plan will be developed for each offender based on their ACE. The treatment plan will be developed by the primary counselor who is the single member of the clinical staff responsible for coordinating and managing the offender's treatment. The treatment plan will take into account cultural and social factors, as well as the particular characteristics, conditions and circumstances of each offender.

The treatment plan will identify the needs of the offender in all relevant life areas. Each life area must either be addressed or deferred with a clinical rationale including, the time frame and/or conditions limiting the deferral. If a life area is not identified as a need in the comprehensive evaluation, the life area must be noted as not applicable. The addressed life areas must include chemical dependence/abuse issues and any other pertinent issues that may be related to or affected by the offender's alcohol and/or drug use. Established treatment goals must support the treatment of the identified diagnosis and/or deferred diagnosis, address the Master Problem List, and may be prioritized to meet areas which can be addressed during the identified treatment service.

The treatment plan will be developed in collaboration with the offender; identify a single member of the clinical staff responsible for coordinating and managing the offender's treatment "primary counselor"; be based on the admitting evaluations specified above and any additional evaluation(s) determined to be required; specify short-term goals which can be achieved while the offender is in ASAT; prescribe an integrated service of therapies, activities and interventions designed to meet the goals; include schedules for the provision of all services prescribed; include each diagnosis for which the offender is being treated at the facility; and/or deferred diagnosis with identification of significant risk factors; be signed and dated by the primary counselor; and be reviewed, approved, signed and dated by an appropriate QHP, if the primary counselor is not a QHP.

Small group counseling is designed to provide an opportunity for treatment offenders to share personal experiences with one another, develop healthy socialization skills, learn and practice healthy coping skills, cultivate and receive peer support, and address treatment plan goals. The primary counselor guides the group toward understanding personal responsibility and the impact of their behaviors on self and others. The primary counselor also guides the group toward personal growth and character enhancement. All offenders will be involved in small group counseling, not to exceed 15 offenders per group, a minimum of twice weekly.

Individual counseling must focus on a topic pertinent to the offender's experiences and/or problems as it applies to their treatment plan goals. The primary counselor will meet with individual offenders as needed throughout treatment, and at least once during each 4 week period. All individual counseling sessions must be documented in the treatment record.

Individuals performing restricted services: as of March 2011, 4 out of 13 Supervising Correction Counselors (ASAT), 47 out of 127 Correction Counselors (ASAT), and 25 out of 151 ASAT Program Assistants were a CASAC. An additional 58 were a CASAC-T. All staff in these titles have the same substance abuse treatment responsibilities noted above regardless of QHP status. Acquiring/maintaining a QHP status is not a requirement of their employment in the title.

To note, NYS OASAS Addictions Counselor I staff are Civil Service Grade 16 with the requirement for maintenance of a CASAC.

SAFEGUARDS IN PLACE

A facility-specific written Quality Improvement Plan (QIP) is developed for all substance abuse treatment services. The Quality Improvement Plan will identify

clinically relevant quality indicators that are based upon professionally recognized standards of care. This process will include but not be limited to an annual self-evaluation. The review will focus on the treatment services offered at the facility.

Record review documentation must be incorporated into the facility's QIP, and may be addressed through identified sections of the treatment record. In the absence of an appropriate supervisory QHP for review and signoff of applicable non-QHP recording, quarterly review of minimally (3) non-QHP records by a multidisciplinary review team, to include assigned SCC staff, must be identified in the QIP.

GUIDANCE

Correction Counselors and Supervising Correction Counselors are located at every correctional facility. Their mission is to assure that case management, purposeful counseling, and monitoring are performed in a consistent and systematic manner.

Through the use of Motivational Interviewing techniques, Counselors increase offenders' intrinsic motivation to make positive changes in their lives. The Counselor has the obligation to advise and prescribe program activities based on an assessment of the offenders' strengths, needs, interests and available facility resources. Guidance services are comprised of three major functions: Case management, Counseling Services and Program Committee.

Other than those working in the previous mentioned programs, there are many other Correction Counselors who perform their duties facilitating educationally based programs such as Aggression Replacement Therapy, Transitional Phases 1, 2 (Think for a Change) and 3.

There are approximately 600 Correction Counselors and Supervising Correction Counselors who are performing their duties in correctional facilities across the state.

SECURITY

DOCCS has approximately 19,730 security staff consisting of Correction Officers, Sergeants and Lieutenants. There are an additional 165 Security personnel at the Correction Captain or Deputy Superintendent for Security Services level. DOCCS provides extensive training for security staff pertaining to the offender with mental health issues.

All new Correction Officer Recruits begin their stay at the Training Academy with a 3 day session related to Mental Health training. The session begins with an 8 hour Suicide Prevention course, a Recognizing and Managing the Special Needs Offender class, and a De-escalation skills training class (ATTACHMENTS #13). The DOCCS' Suicide Prevention Directive #4101 (ATTACHMENT #14) is discussed at great length during training.

Security and civilian employees are also required to receive a 1 hour Suicide Prevention class annually along with instruction on completing a mental health referral form (ATTACHMENT #15).

COSTS

The fiscal impact on DOCCS if the law is not amended is a staggering \$5.601 million. Based on average salary, DOCCS expends \$4.729 million on sixty-eight psychologist and social work type titles. If the result of this law change is that DOCCS can no longer fill these positions with qualified candidates and has to contract for these services, the estimated contract cost would be \$8.303 million.

Additionally, DOCCS reimburses OMH for approximately forty-six psychologist and social work type titles operating in the Intermediate Care Programs with DOCCS facilities. DOCCS would have to reimburse OMH \$3.142 million for these forty-six items; the estimated contract cost for the same items would be \$5.169 million (ATTACHMENT #16). Without this exemption the cost would be extremely significant to this Department.

In addition we are very concerned that there would **not** be enough licensed individuals available to address our needs. DOCCS is already having difficulty hiring for the vacant items we currently use that require licensure. Most likely we would not be able to hire the appropriate staff and therefore would have to use contracted staff. This would push the cost up significantly.

Recruitment would be difficult as those individuals having licensure would be able to make more money in the private sector. Also, there is no current mechanism under the Civil Service Law to terminate an employee as a result of the qualifications for their position changing, as a result, we would have to continue utilizing them and change their work duties, while hiring additional staff. This would be an additional cost factor to this Department.

Specifically, in order to have staff with advanced degrees it would require them to go back to school. The cost of additional education for licensure requirements also presents challenges. Degree programs required to qualify for licensure, such as a Master's Degree in Social Work or Counseling, typically require 2 years of full-time attendance. Admission to these programs is highly competitive, the number of programs in the public schools (SUNY system) at the master's level is very limited and the costs are currently estimated at \$25,000 per year. DOCCS has large numbers of employees that are not necessarily living close enough to one of the SUNY campuses, with a master level program in social work or counseling, to commute. If admission to appropriate educational programs was granted, it is estimated that the cost for two years of attendance at graduate programs for the unlicensed individuals would be in the millions.

Of great concern is the fact that there will be individuals who can not or will not want to return to college. Besides the cost factor there are personal, social, health and/or family factors that may preclude them returning to school to receive an advanced degree.

As stated before, there is not a mechanism to part ways with these individuals under Civil Service law.

Credentialed Alcohol and Substance Abuse Counseling (CASAC) Certification is another path, but it is equally as challenging, costly and time consuming. In order to obtain a CASAC, an individual must document a minimum of 6,000 hours (approximately 3 years) of supervised, full-time equivalent experience in an approved work setting (2,000 hours must be paid; Bachelor's degree in an approved Human Service field may be substituted for 2,000 hours; Master's degree in an approved Human Service field may be substituted for 4,000 hours) and a minimum of 350 clock hours, which address the full range of knowledge, skills and professional techniques related to chemical dependence counseling approximate cost to participate in OASAS education program is \$4,000; available sites identified in (ATTACHMENT # 17). The initial non-refundable CASAC application fee is \$100; exam fee \$200; re-test fee \$200; CASAC-T extension fee \$100.

A CASAC term is 3 years. CASACs are required to document 60 clock hours of relevant experience and training each 3 year period (40 hours specific to addictions). A renewal application fee is \$150. If the 3 year term expires and a renewal application is submitted within 1 year of the expiration, renewal fees include the \$150 plus an additional \$50 for each 6 month period or part thereof, maximum \$50. If the 3 year term expires and a renewal application is submitted more than 1 year of the expiration date, renewal fees include the \$150 plus an additional \$100 for each one year period or part thereof, maximum \$200.

CONCLUSIONS

The mental health care now being provided to individuals incarcerated in DOCCS facilities is legally mandated and, therefore, must be continued. Current staff hired with existing Civil Service criteria for their positions, and with training supplied by the Department, is appropriate to supply these services.

This agency directly addresses the needs of a very limited and distinct population, those offenders who have been incarcerated in its facilities. The Department's Mission statement includes a commitment to provide "a continuity of appropriate treatment services," making it the responsibility of all agency employees, pertaining to the nearly 15% of the offenders incarcerated in NYS DOCCS facilities who are diagnosed with a mental disorder, to contribute to the mental health treatment as they perform their duties. This, at times, will include engaging in restricted activities.

With the passage of Correction Law 622, mandating the implementation of a sex offender program for incarcerated sex offenders, the Department recruited and hired Psychologists and LMSWs. Ongoing recruitment of Psychologist and LMSW titles has been unsuccessful. We have not been able to fill all vacant Psychologist and LMSW positions due to a lack of interest of prospective candidates. Mandating the need to hire more Psychologists and LMSW would make an already difficult situation much worse.

Counselors in the SOCTP are not licensed; rather they work under the licensed LMSW and Psychologist. With the passage of Correction Law 622, the Department utilized some of the Counselors already employed by the Department and hired additional counselors. We have been able to recruit and fill these counselor positions through existing civil service policies and procedures. Training opportunities for counselors has been limited and costly. Again, this would have the immediate result of the closure of many of the sex offender programs.

The staffing plan for the SOCTP includes Psychologist, LMSW's and Counselors. The ability to increase the number of Psychologist and LMSW would allow for more clinical work and supervision within the SOCTP's. Increasing the training opportunities for all staff in the SOCTP is a goal we continuously pursue. Increased funding for training would allow our Department to provide more training to our staff.

DOCCS ASAT services would be unable to comply with professional licensure laws applicable to substance abuse treatment services provided in the State-operated and in State-funded, -approved, and -regulated programs by July 1, 2013, due to the approximately two thirds of ASAT staff who would need to pursue and obtain minimally a Credentialed Alcoholism and Substance Abuse Counselor title. It is noted that approximately 33% of DOCCS treatment staff statewide are designated as a Qualified Health Professional (OASAS requirement is 25% at each site).

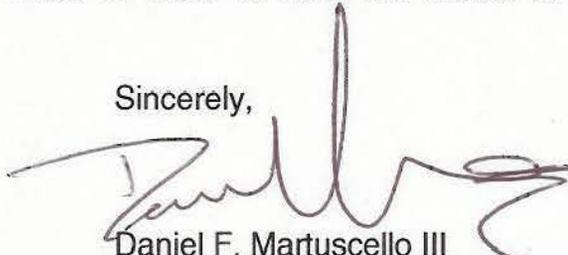
Recommendations on alternative pathways to licensure would be to receive SED's acceptance of the established Civil Service education and experience requirements for the ASAT titles; possible modification to the Civil Service requirements to include a Qualified Health Professional (QHP), of which a CASAC is, could be explored, with the allowance for "grandfathering" in current employees in such titles.

Recommendations for amendments to laws, rules and regulations necessary to fully implement the requirements for licensure by July 1, 2013 would be to develop established waivers in regards to percentages of QHP staff necessary at each site to maintain the provision of substance abuse treatment services, as well as action plans for those sites without QHP staff. The collaboration between DOCCS and OASAS has developed waivers (Memorandum of Understanding) (ATTACHMENT # 18) to address such staffing considerations when specified DOCCS sites are identified for OASAS certification.

DOCCS has revised the substance abuse treatment services operation and procedural manuals to meet or exceed the OASAS Operating Guidelines established for the Department. The collaboration resulted in the implementation of diagnosis determinations, Qualified Health Professional reviews, and development of Quality Improvement Plans to support a team approach to treatment services, and outline procedures required in the absence of a Qualified Health Professional. The DOCCS/OASAS collaboration has provided an opportunity to create a seamless re-entry experience for the offender, whose participation in DOCCS substance abuse treatment services will be viewed favorably by OASAS community-based agencies, thus reducing costs at the community level.

If SED is unable to make an exemption for the provision of substance abuse treatment services within the Department, it would necessitate a huge step backwards in the strategic planning and implementation of such services. Offenders with identified substance abuse treatment needs would be unable to access treatment services for potentially years pending their release, or never for those with life sentences. It is imperative that exemptions be made in order to meet the needs of the population served.

Sincerely,

A handwritten signature in black ink, appearing to read 'Daniel F. Martuscello III', with a long horizontal flourish extending to the right.

Daniel F. Martuscello III
Director of Human Resources

ATTACHMENTS:

INTRO

- 1-June 7th letter to State Ed with Class Standards and duties
 - 2-Shu Exclusion law
 - 3-DAI private settlement agreement
 - 4-Mental Health referral form (3150)
 - 5- DOCCS reception/suicide prevention screening guidelines form (3152RC) &-DOCCS suicide prevention screening guidelines (3152shu/kl)
 - 6-Mental health program summary brochure
 - 7- SOMTA
 - 8- Static 99 instrument (sex offender eval)
 - 9-Mental health Law 10.03 (p)
 - 10--ASAT operations manual
 - 11-MOU DOCCS and OMH
-

SNAPSHOT

- 12-Operating guidelines for Chemical Dependence Services
 - 13-Recruit training-8 hour suicide prevention, Recognizing and managing the special needs inmate, De-escalation skills training
 - 14 Suicide Prevention Directive
 - 15-1 hour suicide prevention lesson plan
-

COST

- 16-Cost projections
 - 17-Oases training catalog
-

CONCLUSION

- 18-MOU DOCCSs and OASAS